

## TWENTY-SIXTH DAY.

SENATE CHAMBER, }  
AUSTIN, TEXAS, July 9, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Guy, the reading of the journals of yesterday was dispensed with and same adopted.

On motion of Senator Storey, the conference committee appointed on yesterday on substitute for Senate bill No. 9 (the supplemental appropriation bill) were granted powers of free conference.

The president, after publicly reading its caption, signed substitute for Senate bill No. 17, entitled "An act to create a commission of arbitration and award and to define the powers and duties thereof."

The pending business being Senate bill No. 69, entitled "An act making an appropriation for certain deficiencies, beginning January 1, 1875, and ending February 28, 1879, and for previous years," was taken up and ordered engrossed.

Senator Edwards moved to suspend the rules and put the pending bill on its third reading.

Carried by the following vote:

## YEAS.

Blossingame,	Hobby,	Martin,	Shannon,
Brown,	Homan,	McCulloch,	Storey,
Buchanan,	Houston,	Moore,	Street,
Burnett,	Lair,	Motley,	Swain,
Davenport,	Lane,	Ripetoe,	Terrell—22.
Edwards,	Ledbetter,		

## NAYS—none.

Not voting—Burton, Ford, Guy, Stewart.

Bill read third time and passed by the following vote:

## YEAS.

Blossingame,	Ford,	Lair,	Motley,
Brown,	Guy,	Lane,	Shannon,
Buchanan,	Hobby,	Ledbetter,	Storey,
Burnett,	Homan,	Martin,	Street,
Davenport,	Houston,	Moore,	Terrell—21.
Edwards,			

## NAYS.

Burton,	Ripetoe,	Stewart—3.
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Not voting—McCulloch, Swain.

Senator Patton was paired with Senator Duncan. He would vote "no" and Senator Duncan "yea."

A message was received from the House announcing the passage by that body of Senate bill No. 89, "An act to amend the charter of the city of Dallas."

House bill No. 92, entitled "An act to regulate advertisement of sales of land for taxes due thereon, and of lands that have been sold and purchased by the state, and to repeal so much of article 4752 of the Revised Civil Statutes of Texas, adopted by the Sixteenth Legislature of Texas, at the first session thereof, and so much of section 3 of an act to provide for the sale of all real estate bid off by the state by collectors of taxes at tax sales, the owners of which have not rendered the same, as are or may be in conflict with the provisions of this act."

Substitute for House bills Nos: 8, 13 and 39, and for Senate bill No. 82, entitled "An act to provide for the sale of a portion of the unappropriated public lands of the State of Texas, and the investment of the proceeds of such sale;" and that the House adheres to its amendments to substitute for House bill No. 78, entitled "An act supplementary to and amendatory of an act entitled an act to amend and supplement the existing quarantine laws of the State of Texas, title 83 of the Revised Statutes, approved April 10, A. D. 1879," and to repeal article 4096 of the Revised Statutes, title 83, and that Messrs. Flewellen, Finlay and Johnson of Colorado, were appointed a committee of conference on the part of the House on said bill.

Senators Street, Bennett and McCulloch were appointed as said committee on the part of the Senate.

Senator Motley moved to go into executive session.

Carried.

IN SENATE.—Senator Shannon moved that the secretary be instructed to spread the confirmations of the executive session just held on the journals.

Accordingly stated that the following notaries public were confirmed, viz.:

R. B. Longmire, Rusk county.

J. G. Anderson, Brazos county.

Pinckney S. Ford, Milam county.

Tyre Hancock, Rusk county.

W. B. Woody, Milam county.

R. R. McRae, cattle and hide inspector for the unorganized county of Jones.

The president, after publicly reading their captions, signed the following bills, viz.:

House bill No. 43, entitled "An act to amend article 3788, chapter 3, title 78 of the Revised Civil Statutes," passed at the regular session of the Sixteenth Legislature;

House bill No. 48, entitled "An act to repeal 'an act to provide for the record of contracts relating to land in a manner that will distinguish community from separate property,' approved April 21, 1879;"

And Senate bill No. 12, entitled "An act making provision for the return to the comptroller's office, before the meeting of each regular session of the Legislature, of all sheriffs', attorneys', or other valid claims against the state for which warrants may not have been issued, so that correct estimates may be made of any deficiencies in the appropriation and to prevent the issuance of 'O K' certificates."

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

COMMITTEE ROOM, AUSTIN, July 9, 1879.

*Hon. J. D. Sayers, President of the Senate:*

Your committee on engrossed bills have examined and find correctly engrossed Senate bill No. 68, entitled "An act to amend article 1333 of the Revised Civil Statutes of the State of Texas, passed at the regular session of the Sixteenth Legislature, as amended by the act amendatory thereof, approved April 19, 1879." BROWN, *Chairman*.

A message was received from the House announcing the passage by that body of Senate bill No. 84, entitled "An act to prescribe what

character of building shall be erected and what articles shall be manufactured at the East Texas Penitentiary at Rusk."

Substitute for Senate bill No. 32, entitled "An act amendatory and supplementary of and to 'an act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668, inclusive, of chapter 1 of title 94 of the Revised Civil Statutes, adopted February 21, 1879;'" and

Substitute for Senate bill No. 77, entitled "An act to provide for the organization of the state penitentiaries, and to regulate the management of the convicts therein," approved March 24, 1872.

Senate bill No. 77, just reported from the House, with amendments, was taken up, and, on motion of Senator Burnett, the Senate concurred in House amendments.

Substitute for Senate bill No. 32, just reported from the House, with amendments, was taken up, and, on motion of Senator Grace, the Senate concurred in House amendments.

Senator Lane moved to suspend the rules and take up substitute for House bills Nos. 8, 13 and 39 substitute for Senate bill No. 82, entitled "An act to provide for the sale of a portion of the unappropriated public lands of the State of Texas, and the investment of the proceeds of such sale," which was reported from the House this morning.

Carried and bill read first time.

Senator Lane moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.			
Blossingame,	Ford,	Lane,	Moore,
Brown,	Edwards,	Lair,	Shannon,
Buchanan,	Guy,	Ledbetter,	Storey,
Burnett,	Hobby,	Martin,	Street,
Burton,	Houston,	McCulloch,	Terrell—21.
Davenport.			

NAYS—none

Not voting—Burton, Duncan, Homan, Motley, Patton, Ripetoe, Swain.

Bill read second time.

Senator Lane moved to adopt House substitute.

Carried and bill passed to third reading.

On motion of Senator Lane, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.			
Blossingame,	Ford,	Lane,	Moore,
Brown,	Edwards,	Lair,	Shannon,
Buchanan,	Guy,	Ledbetter,	Storey,
Burnett,	Hobby,	Martin,	Street,
Burton,	Houston,	McCulloch,	Terrell—21.
Davenport,			

NAYS—none.

Not voting—Duncan, Homan, Motley, Patton, Ripetoe, Swain, Stewart.

Senator Street, chairman of the Senate committee of conference between the two houses on substitute House bill No. 78, submitted the following report:

COMMITTEE ROOM, AUSTIN, July 9, 1879.

*Hon. John H. Cochran, Speaker of the House of Representatives, and  
Hon. J. D. Sayers, President of the Senate:*

Your committee of conference on the differences between the two houses on substitute House bill No. 78, "An act to amend and supplement the

Senator Storey, chairman of committee of free conference, on the part of the Senate, on the difference between the two houses on Senate bill No. 9, submitted the following report:

COMMITTEE ROOM, AUSTIN, July 9, 1879.

*Hon. J. D. Sayers, President of the Senate, and Hon. John H. Cochran, Speaker of the House of Representatives:*

Your committee of free conference on the difference between the two houses on substitute Senate bill No. 9, "An act supplemental to and amendatory of an act entitled 'an act to make an appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881,' approved April 23, 1879," and we recommend—

1. That the House recede from its fifth amendment for fees of sheriffs, clerks and attorneys.

2. We recommend that the House recede from its seventh amendment, and that the original section be amended so as to strike out "\$900, \$900" and insert "\$600, \$600."

3. We recommend that the House recede from its fourteenth amendment making an appropriation of "\$5000" for Medical College and Hospital at Galveston.

4. We recommend that House amendment number fifteen be amended so as to strike out all after the word "ending," in line three from the last, and insert the words "February 28, 1881, \$10,000."

5. We recommend that the Senate concur in House amendment number eighteen, striking out the "\$200,000 item to take up deficiency bonds."

Respectfully submitted,

STOREY,  
STEWART,  
LAIR,  
HOUSTON,  
EDWARDS,  
*Senate Committee.*

FINLAY,  
FROST,  
GAUSE,  
KING,  
JOHNSTON, of Shelby,  
*House Committee.*

Report of committee adopted.

A message was received from the House announcing the adoption by that body of the report of the free conference committee on substitute for Senate bill No. 9, (the supplemental appropriation bill), and the passage of the following bills:

Substitute for Senate bill No. 52, entitled "An act to amend an act entitled an act to extend the time within which railway corporations heretofore organized under the general law of the State of Texas, and having begun the construction of their road, and required to construct, equip, and put in good running order portions thereof;"

Senate bill No. 67, entitled "An act to amend chapter 3, title 15, of the Code of Criminal Procedure of the State of Texas, passed at the first session of the Sixteenth Legislature, in the year 1879, by creating article 1075 and 1076 thereof, relating to costs paid by counties;" and Senate bill No. 83, entitled "An act amendatory of an act defining the boundary lines of Montague county."

Senator Patton moved to suspend the rules and take up Senate bill No. 93, entitled "An act to amend article 4664 of title 95, chapter 1, of the Revised Civil Statutes of the State of Texas."

Carried and bill read second time.

Senator Buchanan moved a call of the Senate.

Call sustained.

Absent—Edwards, Grace, Moore, Street.

On motion of Senator Ford, Senator Grace was excused to attend to his duties as chairman of the enrolling committee.

Senator Ledbetter moved to suspend the call.

Carried.

Senator Ledbetter made the point of order that the pending bill could not be acted upon—it not having been reported from committee within three days of adjournment.

Overruled.

Senator Ledbetter moved to indefinitely postpone the bill.

Senator Storey moved a call of the Senate.

Call sustained.

Roll called. Absent—Moore.

House bill No. 92, entitled "An act to regulate the advertisement of sales of lands for taxes due thereon, and of lands that have been sold for taxes and purchased by the state, etc.," just reported from the House, was taken up and read first time.

On motion of Senator Lane, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Blossingame,	Guy,	Ledbetter,	Shannon,
Brown,	Homan,	McCulloch,	Stewart,
Burnett,	Houston,	Motley,	Storey,
Burton,	Lair,	Patton,	Street,
Duncan,	Lane,	Ripetoe,	Terrell—21.
Ford,			

NAYS—none.

Not voting—Buchanan, Davenport, Edwards, Hobby, Martin, Moore, Swain.

(Senator Houston in the chair.)

Bill read second time and passed to a third reading.

Senator Lane moved to still further suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Blossingame,	Hobby,	Ledbetter,	Patton.
Burnett,	Homan,	Martin,	Ripetoe,
Burton,	Houston,	McCulloch,	Shannon,
Davenport,	Lane,	Moore,	Storey,
Ford,	Lair,	Motley,	Terrell—21.
Guy,			

NAYS—Brown.

Not voting—Buchanan, Duncan, Edwards, Stewart, Street, Swain.

Bill read third time and passed by the following vote:

YEAS.

Blossingame,	Hobby,	Ledbetter,	Patton,
Burnett,	Homan,	Martin,	Ripetoe,
Burton,	Houston,	McCulloch,	Shannon,
Davenport,	Lane,	Moore,	Storey,
Ford,	Lair,	Motley,	Terrell—21.
Guy,			

NAYS—Brown.

Not voting—Buchanan, Duncan, Edwards, Stewart, Street, Swain.

Senator Moore appearing, the Senate was announced full, and the consideration of Senate bill No. 93 was resumed, the pending question being the motion of Senator Ledbetter to indefinitely postpone the bill, which motion prevailed by the following vote:

YEAS.			
Blassingame,	Ford,	McCulloch,	Storey,
Brown,	Lair,	Moore,	Street,
Buchanan,	Lane,	Motley,	Terrell - 14.
Edwards,	Ledbetter,		
NAYS.			
Burnett,	Duncan,	Martin,	Shannon,
Burton,	Guy,	Patton,	Stewart—11.
Davenport,	Houston,	Ripetoe,	

Not voting—Swain.

Senator Hobby, who would vote "aye," was paired with Senator Grace, who would have voted "no."

Senator Homan, who would have voted "no," was paired with Senator Gooch, who would vote "aye."

A message was received from the House announcing the passage of Senate bill No. 58, "An act to provide for the sale, exchange or destruction of useless or injured property belonging to the state," and that the House concurs in Senate amendments to substitute House bills 8, 13 and 39, and for Senate bill 82, "An act to provide for the sale of the unappropriated public lands of the State of Texas, and the investment of the proceeds of such sale."

Senator Grace, chairman of committee on enrolled bills, submitted the following reports:

COMMITTEE ROOM, AUSTIN, July 9, 1879.

*Hon. J. D. Sayers, President of the Senate:*

Your committee on enrolled bills have carefully compared and find correctly enrolled and properly signed substitute Senate bill No. 17, "An act to create a commission of arbitration and award, and define the powers and duties thereof, and to make an appropriation to pay the salaries of the judges thereof," and have this day at 9:15 o'clock A. M. presented the same to the governor for his signature;

Also, Senate bill No. 12, "An act making provision for the return to the comptroller's office, before the meeting of each session of the Legislature, of all sheriffs', attorneys' and other valid claims against the state, for which warrants may have been issued, so that correct estimates may be made of any deficiencies in the appropriations, and to provide against the issuance of 'O. K.' certificates," and have this day at 10:10 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

On motion of Senator Burnett, Senator Lane was excused indefinitely from 11:30 o'clock to-day.

On motion of Senator Motley, the Senate took a recess, subject to the call of the president.

President called the Senate to order.

A message was received from the House announcing the adoption by that body of the report of the committee of conference on the differences between the two houses on Senate amendments to substitute House bill No. 78, "An act supplementary to and amendatory of an act entitled 'an act to amend and supplement the existing quarantine laws of the State

of Texas, title 83 of the Revised Statutes,' approved April 10, A. D. 1879, and to repeal article 4096, title 83 of the Revised Statutes."

On motion of Senator Street, the report of the committee was adopted.

A message was received from the House announcing that that body had passed Senate bill No. 68, "An act to amend article 1333 of the Revised Statutes of the State of Texas, passed at the regular session of the Sixteenth Legislature as amended by the act amendatory thereof, approved April 19, 1879;" also, that the House concurs in the Senate concurrent resolution to adjourn *sine die* at 12 o'clock P. M. on Wednesday, July 9, 1879.

Senator Duncan withdrew his motion made several days since to table the motion of Senator Hobby, to reconsider the resolution retaining the sergeant-at-arms for thirty days after the adjournment of this session; and thereupon,

Senator Hobby withdrew his motion to reconsider said resolution.

Senator Motley offered the following resolution:

*Resolved*, That the comptroller of public accounts is hereby authorized to pay the account of E. W. Swindells, for the publication of the last day's proceedings of the extra session of the Sixteenth Legislature and for printing the evidence of the investigating committee of the Deaf and Dumb Asylum, ordered by the Senate, out of the contingent fund, upon the certificate of the secretary of the Senate as to their correctness.

Adopted.

On motion of Senator Guy the Senate took a recess until called by the president.

The president called the Senate to order.

A message was announced from the House.

Senator Patton made the point of order that there was no quorum present.

The roll was called and a quorum was found present.

Thereupon the message from the House was received, announcing the passage by that body of Senate substitute for House bill No. 20, "An act to repeal an act to amend article 4759 of the Revised Civil Statutes of the State of Texas, adopted on the ..... day of February, 1879," approved April 22, 1879, with amendments.

On motion of Senator Storey the House amendment to above bill was concurred in.

(The president *pro tempore* in the chair.)

Senator Homan introduced the following resolution:

*Resolved*, That the thanks of the Senate are due and are hereby tendered to the Hon. Joseph D. Sayers, lieutenant governor and president of the Senate, for the able and dignified manner in which he has presided over the deliberations of this body; for his uniform courtesy and kindness to all associated with him, and the strict impartiality of his rulings during the excited controversies of the session.

In presenting the above resolution, Senator Homan said:

"MR. PRESIDENT—It is a source of peculiar pleasure to me to be able to offer this resolution, not as a mere formal act of courtesy, but as a just and cheerful tribute to real merit. Being in a political minority in the Senate, I have been in a position to appreciate as highly as any one those qualities in the lieutenant governor which so eminently fit him for the exalted station of presiding officer of this body. I feel sure that the words of the resolution will find a hearty response in the breast of every



senator. During the session now drawing to a close, we have passed through exciting scenes, growing out of the earnest discussion of important questions, frequently involving the determination of intricate questions of parliamentary law. How well and faithfully the duties of the presiding officer have been discharged, I desire the action of the Senate to show. I move the adoption of the resolution, and ask that the yeas and nays be ordered."

Senator Street said:

"MR. PRESIDENT—The mover of this resolution (the senator from Burleson), in rendering a just and graceful tribute to the presiding officer of this body for the distinguished courtesy, intelligence and impartiality which has characterized his rulings and his relations with the Senate, has not inaptly thought fit to say that he bore this evidence as a member of the minority on the leading issues of this session. As a member of the majority in the division thus alluded to, it affords me sincere pleasure to say, that amid the heat and smoke of the conflict which has been waged here, all the more resolute and determined, because as I believe, arising solely from honest differences of opinion, there has been no suggestion from any source, nor, as I believe, has the thought been entertained for a moment by any member of the body, that the personal views of the president of the body have exercised the remotest influence upon his action. But this acknowledgment, sir, were incomplete did I not call to mind the gracious courtesy, the thorough acquaintance with the rules of the Senate and with general parliamentary usage by which he has guided this body through all the excitement incident to differences upon great political issues to that haven reached in these closing hours of peace and good-will among all its members. This result is itself a noble tribute to the judicial-like justice that has fallen throughout this session from the president's desk on the troubled waters of this Senate. I have the honor, the privilege, to move the adoption of this resolution, and that the yeas and nays be called upon it—that there go upon the journals the just tribute of the vote of each senator to well-deserved merit."

The resolution was then adopted by the following vote:

YEAS.

Blassingame,	Ford,	Lair,	Ripetoe,
Brown,	Gooch,	Ledbetter,	Shannon,
Buchanan,	Grace,	Martin,	Stewart,
Burnett,	Guy,	McCulloch,	Storey,
Burton,	Hobby,	Moore,	Street,
Davenport,	Homan,	Motley,	Swain,
Duncan,	Houston,	Patton,	Terrell---30.
Edwards,	Lane.		

NAYS—none.

(Senator Hobby in the chair.)

Senator Burnett offered the following resolution:

*Resolved*, That the thanks of the Senate are hereby tendered to Hon. L. J. Storey, president *pro tempore*, Col. J. P. C. Whitehead, secretary, and all the other officers and employes of the Senate, for the diligence and courtesy uniformly exhibited by them in the discharge of their official duties respectively.

Adopted by the following vote:

YEAS.			
Blassingame,	Ford,	Lane,	Ripetoe,
Brown,	Gooch,	Ledbetter,	Shannon,
Buchanan,	Grace,	Martin,	Stewart,
Burnett,	Guy,	McCulloch,	Street,
Burton,	Hobby,	Moore,	Swain,
Davenport,	Homan,	Motley,	Terrell,
Duncan,	Houston,	Patton,	Tilson—30.
Edwards,	Lair,		

NAYS—NONE.

A message was received from the House announcing the passage by that body of Senate bill No. 90, "An act to authorize the governor, comptroller and attorney general of the state to purchase additional lands for the use of the penitentiaries," with an amendment.

On motion of Senator Swain, the Senate concurred in the House amendment to the above bill.

Senator Ford offered the following resolution:

*Resolved*, That the secretary of the Senate be authorized to employ some one to take charge of, receive from and deliver at the postoffice daily, the mail of the Senate for ten days after adjournment of this session, and that he be paid the sum of two dollars per day for said service out of the contingent fund on the certificate of the secretary.

Senator Burnett moved to amend the resolution by striking out "ten days," and insert "five days."

Adopted.

The resolution as amended was then lost.

Senator Edwards moved to reconsider the vote by which Senator Ford's resolution was lost.

Carried.

(Senator Storey in the chair.)

Senator Burton offered the following amendment to the pending resolution:

Amend by inserting after the word "appoint" the name "Henry Mitchell."

Adopted and the resolution as amended adopted.

A message was received from the House announcing the passage of House joint resolution No. 98, "Authorizing the state librarian to turn over to the Agricultural and Mechanical College of Texas specimens of mineral and other geological specimens in the geological department in said library in certain cases, and copies of all public documents of the state published for distribution, and apparatus belonging to the old geological survey."

Senator Duncan offered the following resolution:

*Resolved*, That the thanks of this Senate be hereby returned to our able and courteous doorkeeper, Col. William Fitzhugh, for the precise manner in which he has always announced "a message from the governor," or "a message from the House," and the uniform grace with which the accompanying gestures have been always made; be it further

*Resolved*, That Col. Fitzhugh be waited on by a committee of three senators, and invited to a seat on this floor, and to return his acknowledgement, if he so desires.

Adopted.

Senators Terrell, Grace and Guy were appointed as a committee under the provisions of said resolution.

The committee performed their duty and reported their action to the Senate.

Senator McCulloch moved to adjourn until 4 o'clock P. M.

Lost.

On motion of Senator Martin, the rules were suspended and House joint resolution No. 98, just reported from the House, was taken up and read first time.

Senator Martin moved to suspend the rules and put the bill on its second reading.

Carried by the following vote:

YEAS.			
Buchanan,	Ford,	Martin,	Shannon,
Burnett,	Guy,	McCulloch,	Storey,
Burton,	Hobby,	Moore,	Street,
Duncan,	Homan,	Motley,	Terrell—19.
Edwards,	Houston,	Ripetoe,	

NAYS.

Davenport, Patton—2.  
Not voting—Blossingame, Brown, Lane, Lair, Ledbetter, Stewart, Swain.

Bill read second time.

Senator Patton moved a call of the Senate.

Call sustained.

Roll called. Absent—Blossingame, Brown, Lair, Ledbetter, Stewart.

On motion of Senator Edwards, the call of the Senate was suspended.

Senator Patton moved a call of the Senate.

Call sustained.

Roll called. Absent—Blossingame, Brown, Lair, Ledbetter.

A message was received from the House announcing the passage by that body of Senate bill No. 79, entitled "An act to prescribe the remedy and regulate the proceedings by *quo warranto*, and confer the jurisdiction in certain cases upon the district court of Travis county."

Senator Terrell moved to suspend the call.

Carried.

Senator Terrell offered the following amendment:

Insert instead of the words "duplicate specimens, where the same can be made," the words "the duplicate specimens in the hands of the International railway company."

Adopted.

Resolution passed to third reading.

Senator Storey moved to suspend the rule and place the resolution on its third reading.

Carried by the following vote:

YEAS.			
Buchanan,	Guy,	McCulloch,	Shannon,
Burnett,	Hobby,	Moore,	Storey,
Davenport,	Homan,	Motley,	Street,
Duncan,	Houston,	Patton,	Swain,
Edwards,	Martin,	Ripetoe,	Terrell--21.
Ford,			

NAYS—none.

Not voting—Blossingame, Brown, Burton, Lane, Lair, Ledbetter, Stewart.

Resolution read third time and passed by the following vote:

## YEAS.

Buchanan,	Ford,	McCulloch,	Shannon,
Burnett,	Guy,	Moore,	Storey,
Burton,	Hobby,	Motley,	Street,
Davenport,	Homan,	Patton,	Swain,
Duncan,	Houston,	Ripetoe,	Terrell—22.
Edwards,	Martin,		

## NAYS—none

Not voting—Blossingame, Brown, Lane, Lair, Ledbetter, Stewart.

Senator Ripetoe offered the following resolution:

*Resolved*, That whereas the resolution heretofore adopted by the Senate, providing for the purchase of a United States flag for the capitol building, has not been carried out, said resolution is hereby rescinded.

On motion of Senator Martin, referred to the committee on state affairs.

Senator Motley moved to adjourn until 5 o'clock P. M.

Lost.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }  
AUSTIN, July 9, 1879. }

*To the honorable Senate of the State of Texas:*

GENTLEMEN—I respectfully ask your advice and consent to the following appointment: Dudley G. Wooten, to be notary public in Travis county, in place of W. B. Ramey, declined.

Respectfully, O. M. ROBERTS, Governor.

On motion of Senator McCulloch the Senate adjourned until five o'clock P. M.

### AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair.

No quorum being present, on motion of Senator Martin the Senate took a recess until called together by the president.

The president called the Senate to order, and proceeded to sign, after publicly reading their captions, the following bills, viz.:

Senate bill No. 58, "An act to provide for the sale, exchange or destruction of useless or injured property belonging to the state;"

Senate bill No. 67, "An act to amend chapter 3, title fifteen of the Code of Criminal Procedure of the State of Texas, passed at the first session of the Sixteenth Legislature in the year 1879, by creating articles 1075 and 1076 thereof, relating to costs paid by counties;"

Senate bill No. 68, "An act to amend article 1333 of the Revised Civil Statutes of the State of Texas, passed at the regular session of the Sixteenth Legislature as amended by the act amendatory thereof, approved April 19, 1879;"

Senate bill No. 77, "An act supplementary to an act entitled 'an act to provide for the organization of the state penitentiaries, and to regulate management of the convicts therein,' approved March 24, 1879;"

Senate bill No. 83, "An act amendatory of an act defining the boundary lines of Montague county;"

Senate bill No. 84, "An act to prescribe what character of buildings

shall be erected and what articles shall be manufactured at the East Texas penitentiary at Rusk;"

Senate bill No. 90, "An act to authorize the governor, comptroller and attorney general of the state to purchase additional lands for the use of the penitentiaries;"

Senate bill No. 89, "An act to amend the charter of the city of Dallas;"

Senate bill No. 32, "An act to provide for the assessment of sleeping, dining-room, palace or parlor cars used upon the railroads of this state, and to prescribe the method for levying and collecting the tax hereby imposed upon the same, and to repeal all former laws in conflict therewith;"

Senate substitute for House bill No. 20, "An act to amend 'an act to amend article 4759 of the Revised Civil Statutes of the State of Texas, adopted on the twenty-first day of February, 1879,' approved April 22, 1879, and to add article 4759a, article 4759b, article 4759c and article 4759d;"

Senate bill No. 20, substitute for House bill No. 12, "An act to amend articles 1057, 1058 and 1059 of the Code of Criminal Procedure of the State of Texas, passed and adopted at the regular session of the Sixteenth Legislature."

Senator Houston presented the following communication:

*Hon. J. D. Sayers; Lieutenant Governor and President of the Senate:*

DEAR SIR—Being about to assume the duties of the office of United States district attorney for the eastern district of Texas, I respectfully tender my resignation as senator from the twentieth senatorial district.

In taking this step, demanded by considerations of personal interest, I sincerely regret the dissolution of the very agreeable relations I have enjoyed with yourself and the other officers and members of the Senate. I would be false to my own feelings if I did not here express my gratitude for the kind consideration which I have invariably met at the hands of the Senate, and bear my testimony to the faithfulness, integrity and patriotism of those with whom I now sever my official connection.

Begging to assure you, Mr. President and senators, of the high appreciation I entertain of each, and the pleasant recollections that I shall ever cherish of my association with you, I respectfully ask that my resignation be accepted, to take effect at 12 A. M. this day; and I remain your obedient servant,

W. K. HOMAN.

AUSTIN, TEXAS, July 9, 1879.

On motion of Senator Houston, the resignation of Senator Homan was accepted, to take effect at the close of the present session.

On motion of Senator Burnett, the secretary was instructed to notify his excellency the governor of Senator Homan's resignation.

Senator Motley offered the following resolution:

WHEREAS, Senator W. K. Homan has this day resigned his position as senator in this body; therefore, be it

*Resolved*, That in parting with him we tender our sincere regards, and beg to assure him of our high personal esteem as a senator and an honorable man. In all the hard political contests that have arisen in this Senate, he has borne himself above personal allusions and always argued "measures and not men." We hope for him unbounded prosperity in his new duties, and cordially commend him to the people of his district.

Adopted unanimously.

In honor of the retiring senator, who possessed the confidence and respect of the whole body, Senators Houston and Edwards delivered eloquent and well-timed addresses, which it is regretted were not furnished for insertion in the journals.

Suffice it to say that they acknowledged the ability, honor, worthy and patriotic services of the honorable senator, and in doing so expressed the sentiment and feeling of every senator as well as those of all the officers of the body.

On motion of Senator Houston, the Senate took a recess until called to order by the president.

The president called the Senate to order.

Senator Terrell offered the following resolution:

*Resolved*, That a committee of three be appointed to wait on the governor and inform him that the Senate will adjourn this evening at 12 o'clock *sine die*, and the Senate will be pleased to receive any communication he may desire to make.

Adopted.

The president appointed Senators Terrell, Martin and Guy as such committee.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

COMMITTEE ROOM, AUSTIN, July 9, 1879.

*Hon. J. D. Sayers. President of the Senate:*

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 77, "An act supplementary to an act entitled 'an act to provide for the organization of the state penitentiaries and to regulate the management of the convicts therein,' approved March 24, 1879;"

Also, Senate bill No. 84, "An act to prescribe what character of buildings shall be erected and what articles shall be manufactured at the East Texas Penitentiary at Rusk;"

Also, Senate bill No. 83, "An act defining the boundary lines of Montague county;"

Also, Senate bill No. 67, "An act to amend chapter 3, title 15 of the Code of Criminal Procedure of the State of Texas, passed at the first session of the Sixteenth Legislature, in the year 1879, by creating articles 1075 and 1076 thereof, relating to costs paid by counties."

Also, Senate bill No. 20, "An act to amend articles 1057, 1058 and 1059 of the Code of Criminal Procedure of the State of Texas, passed and adopted at the regular session of the Sixteenth Legislature;"

Also, Senate bill No. 32, "An act to provide for the assessment of sleeping, dining room, palace or parlor cars assigned upon the railroads of this state, and to prescribe the method for levying and collecting the tax hereby imposed upon the same, and to repeal all former laws in conflict therewith;" also,

Senate bill No. 89, "An act to amend the charter of the city of Dallas;" also,

Senate bill No. 90, "An act to authorize the governor, comptroller and attorney general of the state, to purchase additional lands for the use of penitentiaries;" also,

Senate bill No. 58, "An act to provide for the sale, exchange or destruction of useless or injured property belonging to the state;" also,

Senate substitute for House bill No. 20, "An act to amend an act to amend article 4759 of the Revised Civil Statutes of the State of Texas, adopted on the twenty-first day of February, 1879, approved April 22, 1879, and to add article 4759*a*, article 4759*b*, article 4759*c*, article 4759*d*," also,

Senate bill No. 68, "An act to amend article 1333 of the Revised Civil Statutes of the State of Texas, passed at the regular session of the Sixteenth Legislature, as amended by the act amendatory thereof, approved April 19, 1879;" and have this day at 4:30 o'clock P. M. presented said bills to the governor for his signature. GRACE, *Chairman*.

Senator Terrell, chairman of the committee to wait upon his excellency the governor, reported that duty performed, and that the governor had informed them that he would communicate with the Senate at once.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }  
AUSTIN, July 9, 1879. }

*To the honorable Senate and House of Representatives, in the Legislature assembled:*

GENTLEMEN—Upon your adjournment I desire to express to you my grateful obligation for the respect shown to me as the chief executive of the state by your honorable bodies, and severally by the members thereof.

In that capacity I have endeavored faithfully to bring to light and to present to you and to the country the true condition and workings of the state government in all its departments and institutions. You have responded to my recommendations sufficiently to exhibit a harmonious co-operation in the different departments, in a common design to promote the best interests of the state. I acknowledge my personal gratification at the result.

Upon assembling in January last you found much to do, and you have done much both in the regular and in the special session. The Revised Codes of statutory laws have been adopted and amended; a commission has been established to relieve the supreme and appellate courts, and numerous provisions have been made for the improvement of the judiciary and of the execution of the laws generally; provisions have been made for surveying and selling land to build a new capitol. The quarantine laws have been improved, for the greater safety of the lives of the people against the ravages of yellow fever. You have established normal schools and improved the school laws. A more expeditious mode of selling the school lands has been inaugurated; also, a law for sale of part of the public lands for the payment of the public debt has been passed. The stock laws have been improved. The laws on taxation and collection of taxes have been extensively revised and amended. Expenses in almost every branch of the public service have been curtailed. Indeed, without further enumeration, it may be truly said that nearly every subject in the whole range of legislative action has received your attention and laborious efforts at improvements. This is especially applicable to the various subjects connected with the finances of the state. And on this subject I, as representing in part the whole people of the state, and on their behalf take the liberty to congratulate you as the legislative department and controlling power of the state government, in having, by your action, practically established the great

principle, the greatest in any government, that the ordinary expenses must be brought within the ordinary revenues, from year to year, so as to prevent an increase of public debt, and that no object of expense, however cherished, shall be exempt from diminution if it should be necessary to preserve that principle in practice. "To pay as you go" has come up to the capitol, in no uncertain sound of commendation of that principle from all parts of the state, which shows that the whole people of the state are aroused to a full appreciation of what you have done in that regard, and which, we may hope, gives promise, through their continued approbation, of making it permanently the leading vital principle in our state government in its present and future administration.

Respectfully,

O. M. ROBERTS, *Governor.*

The president, after publicly reading their captions, signed the following bills, viz:

Senate bill No. 79, entitled "An act to prescribe the remedy and regulate the proceedings by *quo warranto*, and confer the jurisdiction in certain cases upon the district court of Travis county;"

Senate bill No. 88, entitled "An act to define who are agents of insurance companies, and to fix their liabilities for acting without authority of law;" and

Substitute for Senate bill No. 9, entitled "An act supplemental to and amendatory of an act entitled 'an act to make an appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881,' approved April 23, 1879."

On motion of Senator Edwards, Senator Brown was indefinitely excused from noon to-day.

The following message was received from the House:

That the House concurs in Senate amendments to House bill No. 98, "Joint resolution authorizing the state librarian to turn over to the Agricultural and Mechanical College of Texas specimens of mineral and other geological specimens in the geological department in said library, in certain cases, and copies of all public documents of the state, published for distribution, and apparatus belonging to the old geological survey."

On motion of Senator Edwards, the Senate took recess until 8:30 o'clock to-night.

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#### NIGHT SESSION.

Recess expired and Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

The president, after reading their captions, signed the following bills, to-wit:

House bill No. 92, entitled "An act to regulate the advertisement of sales of land for taxes due thereon and of lands that have been sold for taxes and purchased by the state, and to repeal so much of article 4752 of the Revised Civil Statutes of Texas, adopted by the Sixteenth Legislature of Texas at the first session thereof, and so much of section 3 of 'an act to provide for the sale of all real estate bid off by the state by collectors of taxes at tax sales, the owners of which have not redeemed the same,' as are or may be in conflict with the provisions of the act;"

Substitute for House bills Nos. 8, 13 and 39, and for substitute for



Senate bill No. 82, entitled "An act to provide for the sale of a portion of the unappropriated public lands of the State of Texas, and the investment of the proceeds of such sale;"

Substitute for House bill No. 78, entitled "An act supplementary to and amendatory of an act entitled 'an act to amend and supplement the existing quarantine laws of the State of Texas, title 83 of the Revised Statutes, approved April 10, 1879,' and to repeal article 4096 of the Revised Statutes, title 83;"

Senate bill No. 52, entitled "An act to amend 'an act to extend the time within which railway corporations heretofore organized under the general law of the State of Texas, and having begun the construction of the road, and required to construct, equip and put in good running order portions thereof;'" and

House joint resolution No. 98, "Authorizing the state librarian to turn over to the Agricultural and Mechanical College of Texas specimens in the geological department in said library in certain cases, and copies of all public documents of the state published for distribution, and apparatus belonging to the old geological survey."

(Senator Homan in the chair.)

Senator Guy presented the following resolutions by the officers of the Senate, adopted in regular meeting of the same:

AUSTIN, TEXAS, July 9, 1879.

At a meeting of the officers of the Senate of the Sixteenth Legislature, held this day in the capitol, Col. J. P. C. Whitehead, secretary of the Senate, was called to the chair, and W. A. Fields, first assistant secretary, was appointed secretary.

A committee, consisting of Wm. A. Fields, Capt. Wm. Neal Ramey, second assistant secretary, and Col. Wm. Fitzhugh were appointed to draft resolutions expressive of the sense of this meeting.

The committee reported the following preamble and resolutions, which were read and unanimously adopted:

WHEREAS, The present session of the Legislature is near its close; and

Whereas, the senators and officers of this body will soon be separated, some of them perhaps never to meet again, we deem it proper and right to make some acknowledgment of the kindness and courtesy with which we have been treated; therefore, be it

*Resolved*, That we hereby tender to Lieutenant Governor Sayers, president of the Senate, and Hon. L. J. Storey, president *pro tempore*, our thanks for the uniform courtesy and kindness received under their administration as the presiding officers of the Senate and as gentlemen in the every-day walks of life. We shall always honor them for their sincere patriotism, as well as their good qualities, both of head and heart.

*Resolved further*, That our thanks are due, and are hereby tendered to all the senators for the kind consideration received from them. Their uniform forbearance and urbanity of manners has rendered our labors lighter than they otherwise would have been.

*Resolved*, That in parting with our honored president and president *pro tempore*, as well as the honorable senators, we tender to each one the

earnest of our sincere esteem and high personal regard, and hope for them a long life of prosperity and honors.

JOHN P. C. WHITEHEAD, *Secretary Senate*,  
 WILLIAM A. FIELDS, *1st Ass't Secretary*,  
 WM. NEAL RAMEY, *Journal Secretary*,  
 JOHN W. SWINDELLS, *Calendar Clerk*,  
 A. M. BELVIN, *Engrossing Clerk*,  
 A. T. LOGAN, *Enrolling Clerk*,  
 W. P. FISHER, *Sergeant-at-Arms*,  
 NAT. Q. HENDERSON, *General Clerk*,  
 RANDOLPH LAURENCE, *Clerk Finance Committee*,  
 J. H. DINKINS, *General Clerk*,  
 WILLIAM FITZHUGH, *Doorkeeper*.

Adopted, and ordered spread on the journals.

Senator Grace, chairman of committee on enrolled bills, submitted the following reports:

COMMITTEE ROOM, AUSTIN, July 9, 1879.

*Hon. J. D. Sayers, President of the Senate:*

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 88, "An act to define who are agents of insurance companies and to fix their liability for acting without authority of law;" also substitute Senate bill No. 9, "An act supplemental and amendatory of an act entitled 'an act to make an appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881,' approved April 23, 1879;" also Senate bill No. 79, "An act to prescribe the remedy and regulate the proceedings by the *quo warranto* and confer the jurisdiction in certain cases upon the district court of Travis county," and have this day, at 5:15 o'clock P. M., presented the same to the governor for his signature.

GRACE, *Chairman*.

COMMITTEE ROOM, AUSTIN, July 9, 1879.

*Hon. J. D. Sayers, President of the Senate:*

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed substitute Senate bill No. 52, "An act to amend 'an act to provide for the incorporation of associations that may be organized for the purpose of constructing railways, maintaining and operating the same, for prescribing and defining the duties and limiting the powers of such corporations when so organized,' approved August 15, 1876," and have presented the same to the governor this day at 9 o'clock P. M. for his signature.

GRACE, *Chairman*.

The following message was received from the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }  
 AUSTIN, July 9, 1879. }

*To the honorable Senate and House of Representatives:*

GENTLEMEN—I herewith transmit to your honorable bodies a list of the captions of all the bills passed by the present session of the Sixteenth Legislature, and signed by me up to this time.

O. M. ROBERTS, *Governor*.

S. B. No. 8.—An act making an appropriation for mileage and per diem pay of members, and per diem pay of officers and employes of the first called session of the Sixteenth Legislature.

Approved June 18, A. D. 1879.

H. B. No. 9.—An act making an appropriation to defray the contingent expenses of the Sixteenth Legislature, convened June 10, 1879, in extra session, by proclamation of the governor.

Approved June 18, A. D. 1879.

H. B. No. 14.—An act supplementary to an act to establish a state normal school, approved April 21, 1879.

Approved June 23, A. D. 1879.

H. B. No. 11.—An act to define the time of holding the terms of the district courts in the fifth judicial district of the State of Texas.

Approved June 26, A. D. 1879.

H. B. No. 3.—An act making an appropriation to pay the interest on the public debt and to pay the sinking fund.

Approved June 28, A. D. 1879.

S. S. B. No. 5.—An act defining and prescribing what funds shall constitute the available school fund and repealing all laws in conflict therewith.

Approved July 2, A. D. 1879.

H. B. No. 15.—An act to amend the ninth section of "An act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts," approved February 22, 1879.

Approved July 2, A. D. 1879.

H. B. No. 10.—An act to better provide for the prompt accounting for and payment of public funds by tax collectors to the proper receiving officer.

Approved July 2, A. D. 1879.

H. B. No. 63.—An act to change and fix the times of holding the terms of the district court in the eleventh judicial district of this state.

Approved July 2, A. D. 1879.

H. B. No. 65.—An act to diminish the civil jurisdiction of the county court of Navarro county and to conform the jurisdiction of the district court of said county to such change.

Approved July 2, A. D. 1879.

H. B. No. 30.—An act to postpone the time for the forced collection of taxes by levy and sale until the thirty-first day of October, A. D. 1879, in such county or counties in this state as had no legal collector of taxes for the twelve months prior to the first day of March, A. D. 1879.

Approved July 2, A. D. 1879.

H. B. No. 23.—An act to enforce the collection of delinquent taxes.

Approved July 4, A. D. 1879.

H. B. No. 49.—An act to amend article 1136, chapter 1, title 28 of the Revised Civil Statutes, adopted February 21, 1879.

Approved July 4, A. D. 1879.

H. B. No. 33.—An act to better provide for and facilitate the collection of all judgments in favor of the state or any county thereof.

Approved July 4, A. D. 1879.

S. B. No. 57.—An act to enable the municipal authorities of towns, cities, and the commissioners' courts of the counties wherein such towns and cities are situated, to co-operate with each other in improvements connected with the town or city and county, necessary to promote the sanitary regulations thereof.

Approved July 4, A. D. 1879.

H. B. No. 17.—An act to equalize and regulate the pay and arming of all military or police companies organized and operated under any law of this state, except those organized under the militia law.

Approved July 4, A. D. 1879.

H. B. No. 41.—An act to provide for the transfer of judgments rendered in the county courts where the civil and criminal jurisdiction (or either) has been transferred to the district courts, and to authorize the enforcement thereof.

Approved July 4, A. D. 1879.

H. B. No. 42.—An act to validate the titles to land reserved from location or patent at the time title issued thereon.

Approved July 5, A. D. 1879.

H. B. No. 46.—An act to amend article 3888, chapter 5, title 79 of the Revised Civil Statutes.

Approved July 5, A. D. 1879.

H. B. No. 36.—An act to change the form of certain securities therein named.

Approved July 5, A. D. 1879.

Sub. H. B. No. 71.—An act amending article 896, chapter 1, title 11 of the Code of Criminal Procedure, approved April 24, 1879.

Approved July 5, A. D. 1879.

S. B. No. 45.—An act to amend section 2 of an act entitled "An act to provide for the printing, binding and distribution of the Revised Civil Statutes, Penal Code and Code of Criminal Procedure," approved April 26, 1879.

Approved July 5, A. D. 1879.

S. B. No. 6.—An act prescribing the times of holding the district courts in the several counties comprising the twenty-second judicial district.

Approved July 5, A. D. 1879.

Sub. H. B. No. 74.—An act to amend article 4652 of title 93 of the Revised Civil Statutes.

Approved July 5, A. D. 1879.

S. B. No. 42.—An act to amend article 3962, chapter 10, title 79 of the Revised Statutes.

Approved July 8, A. D. 1879.

H. B. No. 73.—An act to define the manner in which lands sold at tax sales to individuals may be redeemed by the owner.

Approved July 8, A. D. 1879.

H. B. No. 6.—An act to amend "an act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying convicts from the place where sentenced to the penitentiary," approved April 22, 1879.

Approved July 8, A. D. 1879.

Sub. S. B. No. 59.—An act to exempt from taxation horse racing when run over a distance of four hundred and forty yards.

Approved July 8, A. D. 1879.

Sub. H. B. No. 66.—An act to amend the first section of "an act prescribing the times of holding the district courts of the second judicial district."

Approved July 8, A. D. 1879.

H. B. No. 27.—An act to diminish the civil and criminal jurisdiction of the county courts of Erath, Comanche, Eastland, Red River, Palo Pinto, Stephens, Throckmorton, Taylor, Callahan, Panola, Cass and Bowie counties, and to conform the jurisdiction of the district courts of said counties to such change.

Approved July 8, A. D. 1879.

Sub. for H. Bs. Nos. 18 and 19.—An act to provide for the sale of the alternate sections of lands in organized counties as surveyed by railroad companies and other works of internal improvements, and set apart for the benefit of the common school fund, to provide for the investment of the proceeds, and to repeal all laws in conflict therewith.

Approved July 8, A. D. 1879.

H. Sub. S. B. No. 37.—An act to reorganize the tenth judicial district of this state, to fix the times of holding the terms of the district courts therein and attaching certain counties to the county of Wheeler for judicial purposes and for purposes of organization.

Approved July 8, A. D. 1879.

S. B. No. 12.—An act making provision for the return to the comptroller's office, before the meeting of each regular session of the Legislature, of all sheriffs', attorneys' or other valid claims against the state for which warrants may not have been issued, so that correct estimates may be made of any deficiencies in the appropriations, and to provide against issuance of "O K" certificates.

Approved July 9, A. D. 1879.

H. B. No. 48.—An act to repeal "an act to provide for the record of contracts relating to land in a manner that will distinguish community from separate property," approved April 21, 1879.

Approved July 9, A. D. 1879.

Sub. S. B. No. 17.—An act to create a commission of arbitration and award, and define the powers and duties thereof, and to make appropriation to pay the salaries of the judges thereof.

Approved July 9, A. D. 1879.

S. B. No. 77.—An act supplementary to an act entitled "an act to provide for the organization of the state penitentiaries and to regulate the management of the convicts therein," approved March 29, 1879.

Approved July 9, A. D. 1879.

S. B. No. 90.—An act to authorize the governor, comptroller and attorney general of the state to purchase additional lands for the use of penitentiaries and to make an appropriation therefor.

Approved July 9, A. D. 1879.

S. Sub. H. B. No. 20.—An act to amend "an act to amend article 4759 of the Revised Civil Statutes of the State of Texas," adopted on the twenty-first day of February, 1879, approved April 22, 1879, and to add article 4759a, article 4759C, article 4759c.

Approved July 9, A. D. 1879.

S. B. No. 68.—An act to amend article 1333 of the Revised Civil Statutes of the State of Texas, passed at the regular session of the Sixteenth Legislature, as amended by the act amendatory thereof, approved April 19, 1879.

Approved July 9, A. D. 1879.

S. B. No. 58.—An act to provide for the sale, exchange or destruction of useless or injured property belonging to the state.

Approved July 9, A. D. 1879.

S. B. No. 89.—An act to amend the charter of the city of Dallas.

Approved July 9, A. D. 1879.

S. B. No. 32.—An act to provide for the assessment of sleeping, dining-room, palace and parlor cars assigned upon the railroads of this state, and to prescribe the method for levying and collecting the tax hereby imposed upon the same, and to repeal all former laws in conflict therewith.

Approved July 9, A. D. 1879.

S. B. No. 67.—An act to amend chapter 3, title 15 of the Code of Criminal Procedure of the State of Texas, passed at the first session of the Sixteenth Legislature, in the year 1879, by creating article 1076 thereof, relating to costs paid by counties.

Approved July 9, A. D. 1879.

S. Sub. for H. B. No. 12, S. B. No. 20.—An act to amend articles 1057, 1058 and 1059 of the Code of Criminal Procedure of the State of Texas, adopted at the regular session of the Sixteenth Legislature.

Approved July 9, A. D. 1879.

S. B. No. 84.—An act to prescribe what character of buildings shall be erected and what articles shall be manufactured at the East Texas Penitentiary at Rusk.

Approved July 9, A. D. 1879.

S. B. No. 83.—An act defining the boundary lines of Montague county.

Approved July 9, A. D. 1879.

Sub. S. B. No. 9.—An act supplemental to and amendatory of an act entitled an act to make an appropriation for the support of the state

government for the years beginning March 1, 1879, and ending February 28, 1881, approved April 23, 1879.

Approved July 9, A. D. 1879.

S. B. No. 88.—An act to define who are agents of insurance companies and to fix their liability for acting without authority of law.

Approved July 9, A. D. 1879.

S. B. No. 79.—An act to prescribe the remedy and regulate the proceedings by *quo warranto* and confer the jurisdiction in certain cases upon the district court of Travis county.

Approved July 9, A. D. 1879.

Senator Duncan moved to suspend reading the message and enter the same on the journals.

Carried.

Senator McCulloch offered the following resolution:

*Resolved*, That at this the last hour of the business of this called session of the Sixteenth Legislature, the members of the Senate do hereby tender each to the other the warmest wishes for each other's welfare and future happiness; that we now discard from our minds any unpleasant or unfriendly sentiments in regard to matters of difference upon questions of public policy which have divided us so seriously during the session; and that as citizens of this great and growing state, regardless of local prejudices and preferences, we will use our utmost efforts to advance her future prosperity, and encourage the sentiments as much as in us lies, "that Texas shall be in the future as she is now—one, and undivided now and forever."

In support of this resolution, Senator McCulloch delivered an eloquent, appropriate and patriotic address, which exhibited his generous nature and nobleness of soul, as well as patriotic impulses and wonderful powers of speech and poetic imagination.

The resolution was unanimously adopted.

A committee was received from the House announcing that that body was ready to adjourn.

Senator Duncan moved to appoint a committee to inform the House that the Senate will adjourn in thirty minutes.

Adopted, and Senators Duncan, Street and Patton were appointed as said committee.

They immediately performed this duty and reported the same to the Senate.

On motion, the Senate took a recess until the sound of the gavel.

Whereupon, the members and officers of the Senate presented to the president, through J. P. C. Whitehead, Esq., secretary of the Senate, a handsome gold signet ring as a testimonial of their appreciation of him as an officer, and of their respect and confidence as a man.

Col. Whitehead, in presenting the same to the president, said:

"GOVERNOR SAYERS—In obedience to the wish of the Senate and my co-laborers in its service, I have assumed the pleasant task of presenting you a testimonial of our respect for you as an officer, and our esteem for you as a friend. And let me assure you that I speak not the words of cold formality, but those of sincerity and truth, when I avow that though as to some we may have met as strangers, certainly as to all, we *part* as friends.

"Flattery, always distasteful, could not be tolerated on an occasion like the present, nor could I be, under any circumstances, employed as the medium of expressing its honeyed accents; promises open to the ear only to be broken to the hope. Hence you will believe me, sir, when I say, that amid the delicate duties incident to your position as the presiding officer of this Senate, you have ever inspired its confidence, commanded its respect, and challenged its admiration. To neither the one nor the other of the contending sides in the recent animated and exciting contests through which we have passed has there been any but impartial justice meted out, and your decisions have been such as not only to silence cavil, if any there had been, but to make it both a pleasure and a duty for all to bear testimony to your fidelity, impartiality, devotion and worth. Whatever may have been your opinions, it has been felt that they were the result of reflection and not the ebullition of feeling. Knowing that they were entertained without prejudice; that those opposed were treated with respect; that neither sycophancy on the one hand nor timidity on the other could ever characterize your conduct, you have occupied a position so high that the shafts of envy and detraction could not reach you, and conscience can sleep in its tribunal for want of crimes to punish or indiscretions to reprimand. In a word, your opinions and your decisions have ever been expressed with the firmness that becomes a freeman, with an earnestness that betokened sincerity, and yet they were always tempered with that courtesy which denoted the gentleman.

"Accept then, governor, this ring as a token of our esteem and affection; and as it has no end, may it be typical of a friendship began on earth to be continued through the unending ages of eternity.

Much beautiful and excellent and fair  
Is seen beneath the sun; but naught is seen  
More beautiful or excellent or fair  
Than face of fairest friend, fairest when seen  
In darkest day;  
But all are faithful friends in heaven.'

"One word more, and that is, the setting is a Texas stone, a fit memento for him who has defended her in battle and protected her in council. And what grander object can command our service than to work for the material development and moral advancement of Texas, canopied by as lovely a sky as ever charmed the gaze of the mantuan bard, and fanned by as sweetly scented zephyrs as ever woke to melody Tasso's lyre; an empire in itself, famed for the fertility of its soil, the variety of its agricultural products, its mineral wealth, its manufacturing resources, its genial clime, and distinguished alike for the beauty of its daughters and the chivalry of its sons; no inglorious life is that which is devoted to her interests, for no inglorious life is that which, moving ever upward, is guided by the purest patriotism and wisest philanthropy.

"Sir Walter Scott, through the instrumentality of one of his characters gives utterance to a sentiment no less just and true than it is sublime, beautiful. Says Jeannie Deans in her memorable address to the queen: 'In the hour of trouble, and sildon may it come to your leddyship, and in the hour of death, which comes alike to high and low, rich and poor, lang and late, may it be yours. Oh! my leddy, it is nae what we ha' done for oursels; but what we ha' done for ithers, that we think on, most pleasantly.' Such, sir, may be your reflection in life, as it will buoy your



spirits and lighten your pathway as you come to walk through 'the dark valley of the shadow of death.'

'Friends we were when near each other,  
Let not absence break the bond,  
May no icy coldness sever  
The friendship we have deemed so fond.'

To which Lieutenant Governor Sayers, president of the Senate, responded as follows:

*"Col. Whitehead, gentlemen of the Senate, officers and employes:*

"I assure you that it has been with astonishment that I have listened to the presentation of this testimonial of your kind feelings for myself, and it seems impossible for me to convey, in sufficient and appropriate terms my hearty appreciation of the motives which prompted the presentation of this jewel.

"You have been pleased to refer, in the course of your address, to the motives that have characterized my actions while presiding over this honorable body. If there is anything that I know better than anything else—if it is possible for a man to fathom the depth and innermost recesses of the human heart—I can safely say to this Senate, that in all my rulings I have been actuated by an honest desire to do that which would tend to the best interests of my country. I know no other country and no other land than Texas. My earliest infancy was spent in Texas. My earliest manhood was given to the defense of Texas, and the people of Texas have, in my older and maturer years, honored me beyond my deserts, and I must say to you, gentlemen of the Senate, without leaving myself open to the charge of flattery, that I believe you more than discharged your duty during the legislative session which occupied your attention for nearly three months, having had to deal with varied, conflicting, intricate duties, which called for the exercise of moderation and ability. At this special session, too, with but thirty days before you in which to legislate upon such matters as were presented to you by the governor, I say to-night, you have more than discharged your duty.

"The records show that in this small space twenty-five bills were acted upon by the Senate, and to-night they are upon the statute books of your country. These bills, when they will have gone into operation throughout the length and breadth of our land, will be found to bring peace, harmony and prosperity to every section, all over our state, and the members of this Senate, in connection with the members of the House of Representatives and the governor of Texas, will be regarded by the people of Texas as having well discharged their duty. When the members of this Legislature met they were divided; great excitement and confusion had sprung up in the minds of the people, from one end of the state to the other; but, notwithstanding the differences were wide and great, I am proud to-night to see that all of these differences have been accommodated, that harmony has been brought out of confusion, and order out of distraction. I am proud, too, in the confidence that the bills which have been passed will be acknowledged by all, whatever side of the questions they may have taken, to be entirely appropriate, and the very best that could have been done under any circumstances and by any body of men.

"I have done all that I could to bring about this desirable result, in so

far as my duty lay. I have in all my rulings endeavored to discharge the duty of the high and responsible position with which I have been invested by the people of Texas without fear, favor, prejudice or partiality. I have had earnest and strong convictions upon almost every question over which you have been called to legislate, yet it has been my firm endeavor never to allow my feelings to interfere with the just and impartial discharge of my duties. I am proud to think that you appreciate the motives which have prompted me in every action. I am proud that I have your confidence, because I would rather have the confidence of those with whom I associate, than to be president of the United States. I would rather be regarded by those with whom I associate as an honest and faithful man, than to hold the highest office within the gift of the people of Texas. Such have been the motives which have heretofore prompted me. I trust that in the future those motives will continue in all their force and vigor, and that you will not find anything in my conduct that will mar the recollections of the pleasant scenes of this evening.

"It is possible that with this evening my intercourse with you will forever cease, but I shall guard with my keenest recollection the memories of our association.

"Gentlemen of the Senate, officers and employes, I trust that you will believe me in all sincerity, when I say that for each and all of you, I entertain a like friendly consideration. I trust that your lives may be cast in pleasant places, and when you have played your part well on earth, that you will receive hereafter that splendid reward which is due to honesty and patriotism."

The president then called the Senate to order.

On motion of Senator Ford the addresses of Mr. Whitehead and the response of Lieutenant Governor Sayers were ordered to be spread upon the journals of the Senate.

(President *pro tempore* in the chair).

On motion of Senator Duncan the Senate went into executive session.

(Senator Motley in the chair).

IN SENATE.—Senator Terrell moved that the confirmation made in executive session be entered on the journals.

Carried.

It is accordingly stated that Dudley G. Wooten was confirmed as notary public for Travis county.

At 12 o'clock (midnight) the president declared the Senate adjourned *sine die*.